IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6520 of 2005

Between:

The Andhra Pradesh Private Hospitals & Nursing Homes Association, IMA Building, Koti, Hyderabad, Rep. by its President, Dr. P. Pulla Rao,

S/o. A. Punnaiah, Aged about 55 years,

..... PETITIONER

AND

1 Municipal Corporation of Hyderabad, Rep. by its Commissioner, Tank Bund Road, Hyderabad.

2 Medical & Health Officer, Circle No.I, Municipal Corporation of Hyderabad, 23-1-44, Charminar, Hyderabad.

3 Medical & Health Officer, Circle No.II, Municipal Corporation of Hyderabad, 23-1-44, Charminar, Hyderabad.

4 Medical & Health Officer, Circle No.III, Municipal Corporation of Hyderabad, M.C.H. Parking Building, Opp: GPO, Abids, Hyderabad.

5 Medical & Health Officer, Circle No.IV, Municipal Corporation of Hyderabad, 6-2-973, Khairatabad, Hyderabad.

6 Medical & Health Officer, Circle No.V, Municipal Corporation of Hyderabad, 6-2-973, Khairatabad, Hyderabad.

7 Medical & Health Officer, Circle No.VI, Municipal Corporation of Hyderabad, M.C.H. Parking Complex, Abids, Hyderabad.

8 Medical & Health Officer, Secunderabad Division,
Municipal Corporation of Hyderabad, Parade Grounds, S.P. Road,
Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate Writ order or orders, direction or directions directing the Respondents and their subordinates not to insist the members of the petitioner Association to obtain Trade Licence under the Provisions of Section 521 of Hyderabad Municipal Corporation Act, 1955 in the light of the judgment of this Hon'ble Court in W.P.No. 6253/1992 dt. 20-11-2002 and pass such other order or orders.

Counsel for the Petitioner: MR.V.SRINIVAS

Counsel for the Respondents: Smt G. Jyothi Kiran

This Court at the admission stage made the following :

O R D E R:

This writ petition is filed seeking to declare the action of the respondents and their subordinates in insisting the petitioner to obtain a trade licence under Section 521 of the Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as 'the Act') as arbitrary and illegal.

The petitioner is a registered association representing the Medical Practitioners of the Twin Cities of Hyderabad and Secunderabad. It is stated that various Medical Institutions and Establishments as well the individual Doctors are its members. It is further stated that the first respondent has notified the Nursing Homes/ Hospitals/ Clinics under Section 521 (1) (e) of the Act thereby requiring the occupier of the same to take trade licence under the provisions of the Act. The contention of the petitioner is that as the respondent-Corporation has not yet framed any bye-laws under Section 586 (22) of the Act, the requirement to take a trade licence is an empty formality and illegal and therefore, it is not open to the respondent-Corporation to insist on obtaining such licence.

The learned counsel for the petitioner placed reliance upon a decision dated 20-11-2002 rendered by this Court in W.P.No.6253 of 1992 and batch, in which this Court considered an identical question and disposed of the writ petition directing the respondent-Corporation to reconsider the issue in the light of the decision of the Apex Court in *A.P. BANKERS & PAWN BROKERS' ASSOCIATION VS. MUNICIPAL CORPORATION OF HYDERABAD* and to frame appropriate terms and conditions to regulate the trade licences in respect of Hospitals & Nursing Homes and thereafter to take appropriate action in the matter. It was also made clear that till the directions are complied the respondent-Corporation should not insist the petitioners therein to obtain licences in terms of the notification issued by it.

In the light of the directions granted by this Court in the said writ

petitions, the learned counsel for the petitioner contended that since there are no enforceable bye-laws even as on today, it is not open to the respondent-Corporation to insist upon the petitioner to obtain the trade licence.

The learned standing counsel appearing for the respondents submitted that the bye-laws have already been framed under Section 521 of the Act, according to which all types of trades and businesses including the Hospitals and Nursing Homes should obtain trade licences, however, the bye-laws are yet to be approved by the Standing Committee of the respondent-Corporation.

Since admittedly the bye-laws framed by the respondent-Corporation have not yet been approved by the Standing Committee, it cannot be said that they are enforceable. Hence, as on today there are no enforceable bye-laws. In the circumstances, as rightly contended by the learned counsel for the petitioner, the decision of this Court dated 20-11-2002 in W.P.No.6253 of 1992 and batch squarely applies to the case on hand.

Accordingly, following the decision in W.P.No.6253 of 1992 dated 20-11-2002, this writ petition is disposed of with a direction to the respondents not to insist the members of the petitioner association for obtaining trade licences till the bye-laws framed are approved by the Standing Committee and are made enforceable. No costs.

_____

(**G. ROHINI, J**)

Date: 29-03-2005

ghn

To

1 Municipal Corporation of Hyderabad, Rep. by its Commissioner,
Tank Bund Road, Hyderabad.

2 Medical & Health Officer, Circle No.I, Municipal Corporation of Hyderabad, 23-1-44, Charminar, Hyderabad.

3 Medical & Health Officer, Circle No.II, Municipal Corporation of Hyderabad, 23-1-44, Charminar, Hyderabad.

4 Medical & Health Officer, Circle No.III, Municipal Corporation of Hyderabad, M.C.H. Parking Building, Opp: GPO, Abids, Hyderabad.

5 Medical & Health Officer, Circle No.IV, Municipal Corporation of Hyderabad, 6-2-973, Khairatabad, Hyderabad.

6 Medical & Health Officer, Circle No.V, Municipal Corporation of Hyderabad, 6-2-973, Khairatabad, Hyderabad.

7 Medical & Health Officer, Circle No.VI, Municipal Corporation of Hyderabad, M.C.H. Parking Complex, Abids, Hyderabad.

8 Medical & Health Officer, Secunderabad Division,
Municipal Corporation of Hyderabad, Parade Grounds, S.P. Road,
Secunderabad.

9 Two CD copies.